

Homeless Bulletin Series 03
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School Records and Privacy Rights for Homeless Children and Youth

The McKinney-Vento Homeless Assistance Act authorizes the U.S. Department of Education to periodically collect data on the identification of and services provided to homeless students. Maintaining records on the number of homeless students identified and served could also protect districts from allegations of discrimination. Each district will need to have a policy about the retention and sharing of homeless pupil records consistent with state and federal laws.

Confidential Information

A student's status of "homeless" must be kept confidential. This is true even if willingness to accept certain services available exclusively to homeless students may inadvertently identify them as homeless. The dignity and privacy rights of homeless families, their children, and unaccompanied youth must be respected.

Behavioral Records

If a district believes that a student should be designated as "homeless", the Department of Public Instruction (DPI) recommends that this designation be entered into a pupil's behavioral records since it is not a progress record and not otherwise specifically defined in state law 118.125 (1)(a). In addition, records so designated will be eligible for retention for no more than one year after the pupil ceases to be enrolled (Wis. Stats. 118.125 (1)(a) and (3)). Placing the designation of "homeless" in the behavioral section of pupil records will help ensure privacy of information for homeless students.

Directory Information

The homeless liaison and other district staff may also wish to be proactive in informing the parents/guardians of homeless students, and unaccompanied youth over 18, that directory data can remain private if the parent/guardian or unaccompanied youth requests so in writing (Wis. Stats. 118.125 (2)(j)(2)). Keeping directory information private may be essential for safety reasons, particularly for homeless families and unaccompanied youth over 18 who are in domestic abuse or runaway situations. (For additional information see *Schools Working with Domestic Violence Agencies and Homeless Students* which will be posted on the department's homeless program webpage at <http://www.dpi.state.wi.us/homeless/ehcynew.html>, when it becomes available.)

Unaccompanied Youth Under 18

Many homeless youth do not want to be identified by district staff or their peers as being without a home. Youth may not consider themselves to be homeless when living with friends, would be

embarrassed if their peers know about their homeless situation, or don't want school staff to intervene on their behalf. District staff should develop procedures to ensure greater confidentiality for these students, including the confidentiality of records.

Wis. Stats. 118.175 requires mandatory reports of unaccompanied youth under 18 years of age.

District homeless liaisons or other school staff needs to keep this mandatory reporting requirement in mind before discussing shelter arrangements with homeless students. (See Homeless Bulletin Series 01: Indicators and Strategies for the Identification of Homeless Children and Youth.)

Records of Mobile Students

School records are of special concern for the homeless family, child or youth. District staff should provide more detailed information in the school records of highly mobile students to allow future teachers to better determine academic and course enrollment options. Highly mobile students need school districts to plan and execute a system for forwarding complete records to new schools or districts. School staff should be able to access and forward pupil records within five working days, as required by 118.125, Wis. Stats.

District Records

A school district can decide on any of the following, or develop their own unique system, to keep homeless pupil records:

1. homeless pupil records are kept in each school with limited staff access,
2. homeless pupil records are kept in a locked cabinet in the homeless liaison's office, or
3. a flagging system is developed for use on pupil records with specific staff having access to the code for homeless students.

Under State Statute 118.125, all pupil records are confidential unless specifically exempted by Wisconsin Statutes or through a court order, and are defined as:

“(1)(d)...all records relating to individual pupils maintained by a school but does not include notes or records maintained for personal use by a teacher or other person who is required by the state superintendent under s. 115.28(7) to hold a certificate, license or permit if such records and notes are not available to others, nor does it include records necessary for, and available only to persons involved in, the psychological treatment of a pupil.”

School districts are also required to follow pupil record privacy requirements under the Family Educational Rights and Privacy Act (FERPA) of 1974, 20 USC 1232g, 34 CFR 99.

Record Decisions

Districts need to decide on a number of different issues about homeless student school records:

1. Who collects information about homeless students?
2. What kinds of information should districts collect about homeless students?

3. Who is responsible for keeping and protecting homeless pupil records and where will they be located?
4. Should the district avoid using the designation of “homeless” in permanent pupil records and determine whether to keep it in the behavioral section of pupil records, or store “homeless” files separately?
5. Which district staff will have access to homeless pupil records?
6. Who is responsible for transferring homeless pupil records to other school districts?
7. Who is responsible for collecting and reporting requested homeless data to the department?
8. What process should be established for the timely transfer of homeless pupil records?
9. What privacy assurances will be given about pupil records to homeless parents/guardians and unaccompanied youth if they should ask?

Release of Information for Collected School Records

Parental consent must be obtained to release pupil information. Exceptions under statute 118.125, Wis. Stats., to availability of pupil record information include:

- (a) pupil directory information, when a parent is notified about the development of directories and has 14 days to inform the school that the parent/guardian does not want information released;
- (b) release to other school officials or for other education-related purposes, including:
 - (i) “Pupil records shall be made available to persons employed by the school district which the pupil attends who are required by the department to hold a license and other school district officials who have been determined by the school board to have legitimate educational interests” and
 - (ii) “ Upon request by the department [DPI], the school board shall provide the department with any information contained in a pupil record that relates to an audit or evaluation of a federal or state-supported program or that is required to determine compliance with requirements under chs. 115 to 121. The department shall keep confidential all pupil records provided to the department by a school board.”

For additional information about homeless issues, please go to <http://www.dpi.wi.gov/homeless> or contact DPIhomeless@dpi.wi.gov

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